

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
)
v.) No. 03-10370-DPW
)
DOUGLAS BANNERMAN,)
et al.)

REVISED FINAL STATUS CONFERENCE REPORT

The United States of America and the defendants hereby submit this Final Status Conference Report pursuant to Local Rule 116.5(C).

Local Rule 116.5(C)(1)

The defendant Gary Newell has requested additional discovery; a hearing on that motion is set for December 1, 2004.

Local Rule 116.5(C)(2)

At this point, it is too early to determine all the expert testimony the parties may seek to present. Should the parties be unable to stipulate as to the chemical analysis of the substances seized in this case, the government will provide such information as to its chemist as is required under Fed. R. Crim. P.

16(a)(1)(E) no later than 45 days before trial. The defendants will provide any reciprocal expert discovery no less than 20 days before trial. In addition, should testimony offered by any agent or officer regarding drug-trafficking "tools of the trade" or the practices of drug traffickers, based on their training and

experience, the substance of this anticipated testimony will be disclosed in advance.

Local Rule 116.5(C)(3)

No defendant intends to raise a defense of insanity or public authority.

Local Rule 116.5(C)(4)

The government has not yet requested that the defendants provide notice of alibi.

Local Rule 116.5(C)(5)

As of filing, Douglas Bannerman has filed a motion to suppress the wiretap, in which a number of defendants have joined. Gary Newell has filed three motions -- to suppress a search, for a Franks hearing, and to dismiss -- and has joined in the motion to suppress the wiretap. He reserves the right to file a motion to suppress items seized from him at the time of his arrest. Jose Vezga has moved to suppress a search and statements made incident to that search. John Graham has filed a motion to sever.

Local Rule 116.5(C)(6)

The parties request that a date be set for hearings on the various motions noted above, should such hearings be deemed necessary by the Court.

Local Rule 116.5(C)(7)

Daniel MacAuley has indicated his intention to change his

plea. No other defendant has done so.

Local Rule 116.5(C)(8)

The parties agree that the following time periods are subject to excludable delay:

| | |
|-------------------|---|
| 12/4/03: | Indictment returned |
| 12/4/03-4/4/04: | Excluded by order of the Court (docket no. 76) |
| 4/5/04-6/16/04: | Excluded by order of the Court (docket no. 100) |
| 6/16/04-9/22/04: | Excluded by order of the Court (docket no. 116) |
| 9/22/04-9/28/04: | Various defense motions pending (docket nos. 134, 135, 138, 139, 140, 141) |
| 9/28/04-11/22/04: | Excluded by order of the Court (docket no. 145) |
| 11/22/04-12/1/04: | Various defense motions pending (docket nos. 160, 162, 163, 165, 166, 167, 168) |

As of 12/1/04, 0 non-excludable days have passed, leaving 70 days until trial.

Local Rule 116.5(C)(9)

In the event that this case proceeds to trial, with all defendants but Daniel MacAuley contesting the case, the parties estimate that the trial would last approximately four weeks.

Other Matters

The following paragraphs were added at the request of Mr. Merberg:

1. Counsel for Douglas Bannerman will be requesting that the Court appoint him (James Michael Merberg) as counsel for Douglas Bannerman based on the Government's seizure of funds, which were to be used to pay for legal services rendered.

2. The Defendant Douglas Bannerman based on his incarceration will be asking for a prompt trial date, or in the alternative for an order releasing him on bail pending trial.

Respectfully submitted,

DOUGLAS BANNERMAN

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Dated: November 30, 2004